



CIVILITY ORDINANCE

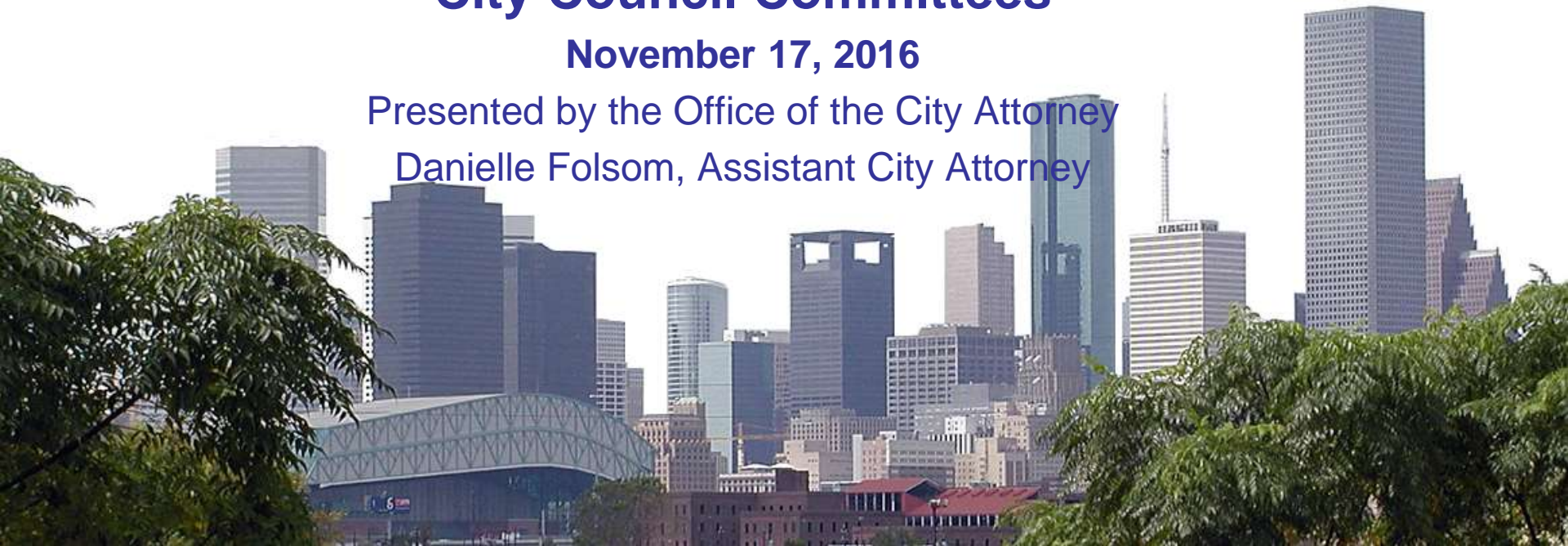
ART. XVI, CH. 40, CODE OF ORDINANCES

**Joint Meeting of Public Safety & Homeland Security
and Regulation & Neighborhood Affairs**

City Council Committees

November 17, 2016

Presented by the Office of the City Attorney
Danielle Folsom, Assistant City Attorney



CREATION OF CIVILITY ORDINANCE

- Article XVI, Chapter 40, Code of Ordinances.
- Passed in 2002 (Ord. No. 2002-504, June 12, 2002).
- Was patterned after Seattle ordinance that was upheld by the 9th Circuit. See *Roulette v. City of Seattle*, 97 F.3d 300 (9th Cir. 1996).

What is the Civility Ordinance?

- City Code Section 40-352: Between the hours of 7:00 a.m. and 11:00 p.m. in a designated area, it is unlawful for any person to:
 - 1) sit or lie down on a sidewalk or on a blanket, stool, or any other object placed upon a sidewalk; or
 - 2) place or deposit any item of bedding materials or personal possessions on a sidewalk.

Civility Ordinance Continued

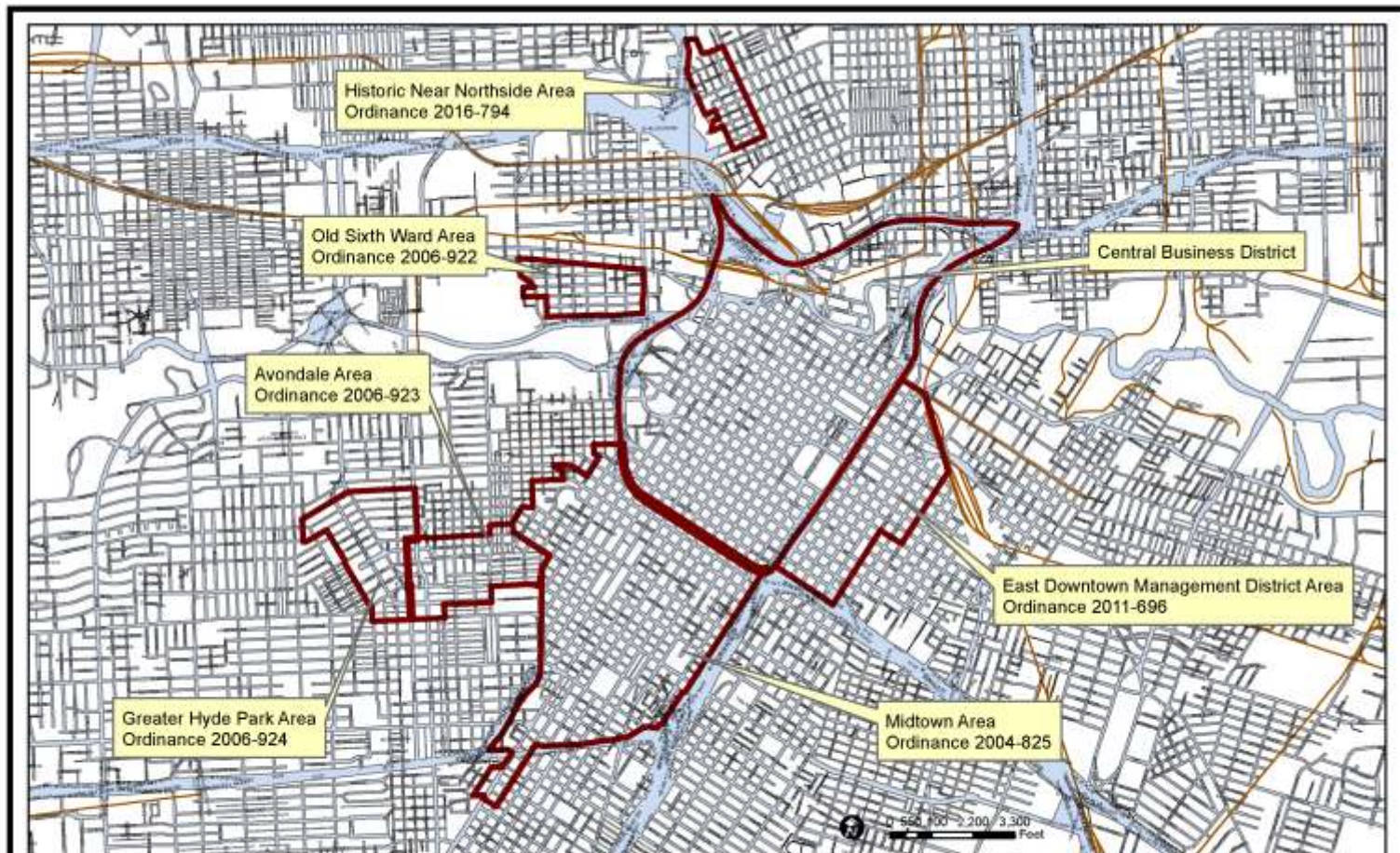
- Prior to enforcement, an officer observing a violation of § 40-352, must notify the person engaged in the prohibited conduct that he or she is in violation of the ordinance.
- Affirmative defense that upon notice, person stopped engaging in prohibited conduct within a reasonable time.

Affirmative Defenses

It is an affirmative defense to prosecution of § 40-352 that the person is:

- Sitting or lying down due to medical emergency;
- As the result of a disability, utilizing a wheelchair, walker, or similar device to move about the sidewalk;
- Operating or patronizing a commercial establishment or service or government function conducted on the sidewalk;
- Participating in or attending a parade, festival, performance, rally, demonstration, meeting, or similar event lawfully conducted on the public street or sidewalk;
- Sitting on a chair or bench located on a sidewalk that is supplied by a governmental agency or the abutting private property owner; or
- Sitting or has placed materials on a sidewalk while waiting for public or private transportation or waiting for access to enter any building.

Where are the “designated areas” located?



Civility Ordinance - Chapter 40 (Sec. 40-351)



PLANNING &
DEVELOPMENT
DEPARTMENT

Creation of Designated Areas

- Designated areas are added through a citizen petition process pursuant to § 40-353. Petition must:
 - 1) Describe proposed boundaries and indicate that signers desire the proposed area to be subject to § 40-352;
 - 2) Contain signatures from property owners whose property represents 20 percent of the total area designated;
 - 3) Contain signatures of at least 100 citizens over age of 18 residing in the proposed area;
 - 4) Contain signatures collected within 60-day period; and
 - 5) Be Submitted to City Secretary within 90 days of the date of first signature.

Creation of Designated Areas

- HPD investigates proposed area and reports to City Council regarding existence of conduct prohibited by civility ordinance and other criminal misconduct in the area.
- City Council conducts public hearing within 45 days of filing of valid petition.
- City Council adds proposed designated area to civility ordinance if:
 - 1) petition meets all requirements;
 - 2) proposed area exhibits the type of conduct and adverse impact on sidewalks and adjacent properties that civility ordinance was intended to address; and
 - 3) designation of proposed area would best serve the health, safety, and welfare of the public.

Questions/Comments

